



State of New Jersey
DEPARTMENT OF ENVIRONMENTAL PROTECTION
DIVISION OF WASTE MANAGEMENT

HAZARDOUS SITE MITIGATION ADMINISTRATION
CN 028, Trenton, N.J. 08625

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M E M O R A N D U M

5 JUN 1985

TO: Berry's Creek Site Action Committee (SAC) Members
and/or Meeting Attendees

FROM: Dr. Jorge H. Berkowitz, Chairman - SAC

SUBJECT: MEETING MINUTES - SAC MEETING #2 (May 21, 1985)

MEETING ATTENDEES: Dr. Jorge H. Berkowitz, NJDEP/HSMA, SAC Chairman
Hank Garie, NJDEP/ORS, SAC Member
Lawrence Schmidt, NJDEP/OP, SAC Member
Charles Hanson, Velsicol, SAC Member
Arthur Slesinger, Morton Thiokol, SAC Member
Fred Ziegler, President - ERM Southeast
Joseph Maher, NJDEP/HSMA, SAC Designated Project Manager
Dr. Richard Dime, NJDEP/HSMA
George Harvell, Velsicol
Grace Singer, NJDEP/HSMA
Jeffrey Folmer, NJDEP/HSMA
Paul Galluzzi, Hackensack Meadowlands Development Commission
Robert Will, USACOE/EAR
Mario DelVicario, USACOE/EAR

Formal notification of the second meeting of the Berry's Creek/Wood Ridge Site Action Committee, which included the minutes of Meeting #1 along with a proposed agenda for Meeting #2, was given to the committee members by Chairman Berkowitz's letter of 5/8/85.

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I. Call to Order
Introduction of New Members/Attendees

Chairman Berkowitz called the meeting to order at 9:30 a.m. with all members present. As the first order of business, additions and/or alterations to the NJDEP proposed agenda for the meeting was solicited. No changes being offered, the meeting was initiated in accordance with the attached agenda.

Each member and invitee introduced themselves and noted the organization they represented. Chairman Berkowitz noted for the record that Perry Katz, absent from the meeting, would be the USEPA exofficio member to SAC. Mr. Katz's title, address, and phone number are as follows:

Perry Katz
N.J. Investigation and Compliance Section
Enforcement Branch
Emergency and Remedial Response Division
U.S.E.P.A. Region II
26 Federal Plaza
New York, NY 10278
Phone #: (212) 264-8678

II. Review/Adopt Minutes of SAC Meeting #1

Chairman Berkowitz polled the members for any exceptions to the Meeting Minutes, SAC Meeting #1. Two exceptions were presented as follows:

- (1) C. Hanson noted that Item VI of the meeting minutes did not include the revisions to the last paragraph on Page 1 of Exhibit B - Scope of Work, Task 1 which now reads "The above three (3) items shall be submitted to the SAC for review and approval prior to initiating subtask 1 and subtask 2."
- (2) L. Schmidt noted the following correction to Item X: Robert Will, COE New York District has accepted appointment to TAG as a voting member rather than Bob Engler as indicated in the minutes.

No other exceptions offered, SAC unanimously adopted the Meeting #1 Minutes with the two exceptions as noted above.

III. Status of Business Items Created at SAC Meeting #1

Item A

Chairman Berkowitz entered for the record a memorandum signed and dated 5/21/85 naming the proxy for each of the three DEP SAC members as follows:

<u>SAC Member</u>	<u>Proxy</u>
Chairman Berkowitz	Project Manager Maher
Lawrence Schmidt	Anthony Farro, Deputy Administrator, HSMA
Hank Garie	Dr. Richard Dime, TAG Member

C. Hanson of Velsicol named George Harvell as his proxy and will formalize the designation in writing on or before the next SAC meeting. A. Schlesinger stated his intention to provide his proxy designee formally in writing on or before the next SAC meeting.

Item B

As noted in Item I, Perry Katz is the EPA SAC designee.

Item C

Chairman Berkowitz distributed an NJDEP internal memorandum dated 12/14/84 from the Director, Office of Regulatory Services (ORS) to the Director, Division of Waste Management indicating that SAC is not subject to the "Sunshine Laws" in the opinion of both the Attorney General's office and ORS.

Item D and Item E

George Harvell, Velsicol requested that Items D, E, G, and Item IV be discussed sequentially. With no objections raised by the Committee, the following discussions ensued:

Chairman Berkowitz and Project Manager Maher acknowledged that the Stipulation did not require any acceptance by NJDEP and/or SAC of the Velsicol/Morton Thiokol contract but noted the pertinence of the contract toward the realization of the completed RI/FS. Project Manager Maher indicated the importance of having the executed 3 party contract (ERM/Velsicol/Morton Thiokol) for reference purposes in certifying ERM's invoices for payment on Task 1 completed work.

George Harvell and Art Schlesinger informed the Committee that the Velsicol/Morton Thiokol contract was nearly finalized and would be forwarded to Project Manager Maher upon execution. G. Harvell indicated a similar status for the 3 party contract. G. Harvell orally presented an overview of the framework of each of the contracts.

IV. Invoice Certification Procedure Proposed by C. Hanson, Velsicol

G. Harvell presented the basic structure of Velsicol's proposed invoice certification procedure dated as a draft 5/10/85 in the form of a resolution. Chairman Berkowitz and Project Manager Maher conveyed their concern that the procedure was cumbersome for the Project Manager to carry out, particularly if there are minor discrepancies on a large dollar amount invoice (i.e. \$50 worth of questionable items on a \$50,000 invoice). The procedure as presented requires unanimous certification by SAC of a "perfect" invoice. Chairman Berkowitz noted the unacceptability of any such procedure on the part of prospective contractors to be bidding on this job resulting in either a reluctance to bid or built in price increases to cover the uncertainty of receiving timely payments for work completed.

Project Manager Maher noted that there would be a 10% retainage on any invoice processed and that it would be preferable to institute a certification procedure allowing for deferral of payment on questionable

invoice charges. C. Hanson stated Velsicol's invoice processing historically showed that approximately 50% of billings were not payable because of mischarges and, therefore, the 10% retainage did not provide an adequate cushion.

Project Manager Maher offered the possibility of including additional language in the RFP beyond the present boiler plate to address more specifically the documentation required to process any given invoice.

Chairman Berkowitz proposed that Project Manager Maher be assigned the task of drafting a revised invoice certification procedure within two weeks for SAC's consideration. No objections being raised, it was agreed that the revised procedure to be drafted would be circulated for SAC review in two weeks and verbal comments should be conveyed to Project Manager Maher. Formal adoptance of a revised invoice certification procedure shall occur at the next SAC meeting.

Item G (of III)

G. Harvell stated that he would be submitting ERM's invoices for Task 1 work to Project Manager Maher for certification as an eligible cost. After a discussion of the applicability of the new invoice certification procedure (to be developed) relative to the ERM Task 1 work, it was agreed that the Task 1 invoices be exempt from any new procedure. Project Manager Maher proposed that he only have to certify that the percent project complete is accurate and not have to scrutinize each and every charge on a given invoice and certify it since the Task 1 work is governed by a three party contract between ERM, Velsicol, and Morton Thiokol.

A motion was offered by A. Schlesinger and passed unanimously that Velsicol and Morton Thiokol will submit invoices from ERM that they certify are eligible costs to Project Manager Maher. Project Manager Maher will in turn certify to SAC that the invoices are appropriate to the objectives of Task 1 and, as such, qualify as eligible costs in accordance with the Stipulation.

Item F (of III)

Project Manager Maher informed SAC that, although authorized to initiate work on the RFP at SAC Meeting #1, very little project specific drafting of the RFP has been completed to date. For Tasks 2, 5, 7, 8, 9, and 10 of the Exhibit B - Scope of Work, the language contained in DEP's "Term Feasibility Contract X-312" can be modified with a minimum of effort for purposes of this RFP. Tasks 3 and 6 are very dependent on the completion of the Task 1 work as well as portions of 5 and 7. Task 4 is dependent upon finalization of the chosen contracting mechanisms for this work.

Chairman Berkowitz requested that a time line schedule with critical milestone dates be developed prior to the next SAC meeting. A discussion ensued between all parties present resulting in the following schedule being adopted:

June 30	Draft RFP Due From Project Manager
July 15	RFP Finalization and Approval by SAC
August 15	Scheduled Bid Opening
September 15	Award RI/FS Contract

All members of SAC agreed that the above schedule is an optimistic one but one that each member would commit to trying to achieve.

VI. Task 1 Discussion

A motion was made by Project Manager Maher to move to Item VI of the agenda and seconded by Chairman Berkowitz. Fred Ziegler, President of ERM presented a progress update on the Task 1 work. The projected expenditures through 4/30/85 was \$74,000 and the actual expenditures were \$60,000. All subtask items have been distributed to TAG in draft for preliminary comments except for subtask 2(C.) "Models Evaluation." The two subtask reports for the "Site Specific Literature Search and Background Investigation" and the "General Literature Search" will be compiled as final drafts and submitted to both TAG and SAC for final comments in early June. It is expected that extensive comments will be received on the final draft documents as a result of many reviewers lack of available time to perform quick reviews on the preliminary draft documents received. Fred made note that the project specific CPM schedule developed by ERM provided for a two week period for document review. Fred recommended that the CPM schedule be revised to reflect a minimum three week review period. This recommendation was based on the six month work experience to date with the 2 operating committees involved. Fred's recommendation was accepted without objection. Fred stated he would also incorporate a 40 day contractor selection time frame in the revised CPM. Previous CPM schedules allowed for only a 20 day time period.

During the above Task 1 discussion item, C. Hanson voiced his concerns over the apparent excessive use of express mail to transmit the many draft documents for review. A study by Velsicol personnel indicates that persons receiving express mail on average don't read the received document until five (5) days after receipt and oftentimes express mail speeds the delivery by only 1 day. Chairman Berkowitz concurred with C. Hanson's assessment of express mail use based on his experience. The consensus among the SAC members including L. Schmidt (Executive Secretary of TAG), was to avoid the use of express mail in all but extreme cases and this consensus is to serve as a directive to purveyors of project specific information for the remainder of this project.

Item I (of III)

Chairman Berkowitz made a motion to move to the Community Relations item on the agenda that was seconded by C. Hanson. Grace Singer, Director of Community Relations, was introduced and began her discussions with site specific questions directed to SAC members including: (1) What kind of community interest has been expressed thus far? (2) Have any official meetings been held? and (3) Has there been any press coverage in the last two to three years? L. Schmidt and P. Galuzzi, TAG member representing the HMDC, informed Grace and the other meeting attendees of the following:

- there is more public interest from the industrial/commercial sector than from private citizens
- the majority of existing businesses are concerned more with the continual flooding problem in the Meadowlands than the Hg cleanup
- the Meadowlands Commission is the more powerful government institution in the project area as opposed to the local municipal government officials
- there has been one official meeting held with regard to this project approximately 3 years ago and the project has received press coverage approximately 2 or 3 times in the last 2 to 3 years.

G. Singer presented an outline of the five (5) occasions during the hazardous waste cleanup process where community involvement is solicited. The 5 points of community contact in the cleanup process are the following:

1. Beginning of FS - public meetings (DEP)
2. End of FS - public meetings (DEP)
3. Design - notify public officials, press release
4. Construction - notify public officials, press release
5. Close out - notify public officials, press release

G. Singer explained the importance of letting the public know that the principals have no preconceived solutions for the given problems, i.e. the community relations process is a meaningful and valuable one and not just a formality. The first public meeting is usually held after the contractor has been on board for about two months. Based on the projected schedule of letting bids for the RI/FS, it appears that an informal briefing would be in order in late September and the first public meeting two months later in November.

C. Hanson and A. Schlesinger informed G. Singer of their wishes to be visible during the public meetings. C. Hanson related his experience with the community relations aspect of a Superfund project in Tennessee he was involved in and explained his company's desire to have as much community involvement as possible. C. Hanson will have Kathy Brown of Velsicol's Corporate Affairs Office contact G. Singer to discuss the specifics of planned community relations activities. C. Hanson also noted the fact that the manufacturing site proper lies in two different communities and approximately half the site proper lies in the Meadowlands under HMDC's jurisdiction which may require special coordination from a community relations standpoint.

VIII. Wetlands Development in the Hackensack Meadowlands

Chairman Berkowitz moved without opposition that Item VIII be addressed next because time was growing short and this was a very important discussion item. L. Schmidt led the discussion of this agenda item. An initial background was given as follows:

At the 5/2/85 meeting of TAG, TAG members learned from Paul Galuzzi, HMDC of an industrial park being developed just below the Wood Ridge site in which

wetlands were being disturbed and filled. Paul informed TAG of this information in presenting an applied research study proposal of mercury interactions following wetlands disturbance for TAG's consideration. L. Schmidt was very disturbed upon learning of this information and informed TAG that he would follow up with an identification of any regulatory options available to DEP and the USACOE to restrain development until completion of the RI/FS in order to be able to address the ramifications of the wetlands development. On 5/10/85, L. Schmidt and Deputy Attorney General Ron Heksch met with HMDC staff to discuss the specifics of the Berry's Creek wetlands development, particularly the 32 acre site downstream of the Wood Ridge Site being developed by Richard Harries, Inc. as an industrial park. A "Memorandum of Record" dated 5/14/85 is attached detailing the 5/10/85 meeting.

After completing the background discussion, L. Schmidt distributed copies of his letter to the USACOE (John Zammit, Chief, Operations Division/NY District) requesting their investigation of the wetlands development and DEP notification of any regulatory actions the USACOE intends to take. L. Schmidt's discussion continued with a slide presentation of the 5/10/85 site visit.

P. Galuzzi presented HMDC's position on the matter which is that they provide their approvals for development in accordance with the approved HMDC Master Plan and, therefore, there is no mechanism to prevent such development.

Chairman Berkowitz emphasized that the role of SAC is limited to the study as outlined in the Stipulation and that the larger question of wetlands development in the entire Meadowlands is beyond SAC's jurisdiction. Pursuance of the issues L. Schmidt raises should be undertaken by the Department of Environmental Protection except those that directly impact the study at hand. L. Schmidt and all other SAC members agreed with the Chairman's position. C. Hanson stated his concurrence and added that proceeding in any other fashion would be to invite potential lawsuits from developers.

VII. Task 4 Discussion

Chairman Berkowitz moved without objection to proceed to the Task 4 "Research Studies" discussion as the last agenda item for this meeting to accommodate his commitment to another meeting and airline schedules for others. H. Garie gave a progress update detailing that four research areas have been finalized based on the WES meeting and subsequent TAG meeting, however, it is difficult to write the scopes of work. In his opinion, it is more appropriate to merely convey the objectives desired for each of the research areas and have the prospective researchers develop preproposals for the research. At that point, negotiations can proceed between DEP and/or designated TAG members and the researcher to fine tune the proposal and ultimately reach a finalized contract between the parties.

H. Garie informed SAC that the major stumbling block at present to initiating the research work is deciding on the best contracting mechanism. As outlined to him at a 5/10/85 meeting he had with Charles Strano, Deputy

Director - Financial Management, Planning and General Services, the following three options are available for contracting the research:

- (1) "Short Form Contract" available to engage New Jersey academic institutions
- (2) "Waiver of Advertising" to engage an institution such as the USACOE Waterways Experiment Station (justified on the basis of their special expertise)
- (3) "Competitive Bidding" through bid solicitation via a Request For Proposal (RFP) that would have to be developed. A modification of this third alternative would be to incorporate the research investigation task as part of the RFP for the overall RI/FS to be bid upon completion of Task 1.

There are advantages and disadvantages to each contracting method. The TAG consensus is that having the USACOE WES conduct all the research presents the most advantages. H. Garie has been unable to obtain a commitment from WES to date. A proposal has been received for TAG's consideration from Dr. Bartha at Rutgers University addressing 3 of the 4 research areas and H. Garie expects to receive a proposal from Drs. Goode and Simpson, Rutgers University and Rider College, respectively, in the near future addressing "the role of the marshes."

The discussions that took place subsequent to H. Garie's discussion resulted in the following "to do" directives from SAC regarding the research:

- (1) H. Garie and L. Schmidt obtain a commitment or rejection from WES to perform the research.
- (2) F. Ziegler is authorized to determine the qualifications and interest of the Oak Ridge Research Laboratory in performing the research and shall report findings to TAG.
- (3) Project Manager Maher shall work with TAG in developing final recommendations for proceeding with the research investigations.
- (4) TAG shall make final recommendations for proceeding with the research at the next SAC meeting.

The meeting concluded with the tentative scheduling of the next TAG meeting for the second week of June and the next SAC meeting on June 27, 1985 at 9:30 a.m. at the same location. All agenda items not covered at Meeting #2 shall be addressed at the next meeting.

Chairman Berkowitz closed the meeting with a commitment to have the meeting minutes sent out ten (10) working days from the date of the meeting.